

**CONSERVATION EASEMENT AGREEMENT  
(Preservation of Floodplain)**

THIS CONSERVATION EASEMENT AGREEMENT is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between People's City Mission Home, a Nebraska nonprofit corporation ("Owner") and the City of Lincoln, Nebraska ("City").

**RECITALS**

**I.**

Owner is the owner in fee simple of certain land legally described as:

The north 51.6 feet of Lots 11 and 12, Block 275, Original Plat of Lincoln, in the Southwest Quarter of Section 23, Township 10 North, Range 6 East of the 6th P.M., Lincoln, Lancaster County, Nebraska;

("Real Property"). Said Real Property is located within the 100-year floodplain as designated by the Federal Emergency Management Agency (FEMA) and shown on the September 21, 2001 Flood Insurance Rate Map for Lancaster County, Nebraska and Incorporated Areas and any revisions thereto.

**II.**

The City is authorized to accept and hold said conservation easement under the terms of this Agreement and the Conservation and Preservation Easements Act.

**III.**

This Agreement has been submitted to the Lincoln-Lancaster County Planning Commission pursuant to the provisions of Neb. Rev. Stat. § 76-2,112 for review and recommendation and said Commission has found that the conservation easement is in conformance with the Lincoln City Comprehensive Plan.

**IV.**

The City Council of the City of Lincoln, Nebraska, has approved and accepted this Conservation Easement after duly considering the recommendations of the Lincoln City-Lancaster County Planning Commission and has authorized the Mayor to execute this Agreement on behalf of the City.

NOW, THEREFORE, in consideration of the mutual value to the Owner and City, to protect and preserve the natural floodplain values and functional integrity of the 100-year floodplain and to promote and advance development of a quality standard of life within the City, the City and Owner agree as follows:

1. **Grant of Conservation Easement.** Owner hereby creates, establishes, grants, and conveys to City for its benefit and the benefit of the public a conservation easement over the Real Property to restrict the use of the Real Property to open space to protect and preserve the drainage way and natural floodplain values, including flood storage capacity, conveyance, and functional integrity of the Real Property relative to the floodplain, and to restrict development and future use of the Real Property that will significantly impair or interfere with the open space values of the Real Property.

A. **Compatible Uses.** The land shall be used only for purposes compatible with open space, recreational, or wetlands management practices; in general, such uses include agricultural uses, parks for outdoor recreational activities, nature reserves, unimproved pervious parking lots and other uses described in 44 CFR 206.434, as it reads now and may be amended in the future.

B. **Fill.** No fill of any kind shall be placed on the property including, but not limited to, spoil from any excavation, except as approved by the City Public Works and Utilities Director in writing prior to placement of the fill.

C. **Structures.** No new structures or improvements shall be erected on the property other than:

- i. A facility that is open on all sides and functionally related to the open space use; or
- ii. A structure that is compatible with the uses described in Paragraph 1A above, and approved by the City Public Works and Utilities Director in writing prior to the commencement of the construction of the structure.

D. **Term.** The term of this Conservation Easement will be in perpetuity.

2. **Binding Affect.** The Conservation Easement granted herein shall run with the land and shall inure to the benefit of and be binding upon the successors and assigns of Owner and City.

3. **Recordation.** The parties agree that this Agreement shall be duly filed by the City with the Lancaster County Register of Deeds upon execution and acceptance by the City. Filing fees shall be paid in advance by the Owner.

4. **Severability.** If any provision of this Conservation Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of the Conservation Easement and the application of such provisions to persons or circumstances other than those to which it is found to be invalid shall not be affected thereby.

5. **Inspections and Access by City.** The City agrees that the easement does not grant the right of public access to the Real Property. However, the City shall have the right of reasonable ingress and egress to and from the easement area from public roads and streets and from adjacent properties for its employees, contractors, vehicles and equipment for the purpose of inspecting, maintaining, protecting or enhancing the Real Property as the City may deem necessary or desirable.

6. **Agreement to Pay Taxes.** Owner agrees to pay any real estate taxes, estate taxes or assessments levied by competent authorities on the Real Property, prior to the times such taxes become delinquent.

7. **Enforcement.** Owners on behalf of themselves, their heirs, successors and assigns agree that the City may enforce the provisions of this Conservation Easement by any proceeding at law or in equity, including but not limited to, the right to require restoration of the Real Property to the condition at the time of this grant. Owners further agree that the City may seek an injunction restraining any person from violating the terms of this Conservation Easement and that the City may be granted such injunction without posting of any bond whatsoever. Owners further agree that the City does not waive or forfeit the right to take any action as it deems necessary to insure compliance with the covenants and purposes of this grant by any prior failure to act. Owners further agree that should they, their heirs, successors or assigns undertake any activity requiring the approval of the City without or in advance of securing such approval, or undertake any activity in violation of the terms of this Conservation Easement that City shall have the right to enforce the restoration of that portion of the Real Property affected by such activity to the condition that existed prior to the undertaking of such unauthorized activity. In such case, the cost of such restoration and the City's cost of suit, including reasonable attorney fees, shall be paid by Owner or those heirs, successors, or assigns against whom a judgment is entered or, in the event that the City secures redress without a completed judicial proceeding, by Owners or those of its heirs, successors and assigns or are otherwise determined responsible for the unauthorized activity.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

By: William E. Caldwell, President

**CITY OF LINCOLN, NEBRASKA**

**Notary Public**